

SHB 1067 - H AMD 523

By Representative Shea

FAILED 06/24/2015

1 On page 2, after line 6, insert the following:

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3 "Sec. 3. RCW 74.66.070 and 2012 c 241 s 207 are each amended
4 to read as follows:

5 (1)(a) Subject to (b) of this subsection, if the attorney
6 general proceeds with a qui tam action, the relator must receive at
7 least fifteen percent but not more than twenty-five percent of the
8 proceeds of the action or settlement of the claim, depending upon
9 the extent to which the relator substantially contributed to the
10 prosecution of the action.

11 (b) Where the action is one which the court finds to be based
12 primarily on disclosures of specific information, other than
13 information provided by the relator, relating to allegations or
14 transactions in a criminal, civil, or administrative hearing, in a
15 legislative or administrative report, hearing, audit, or
16 investigation, or from the news media, the court may award an amount
17 it considers appropriate, but in no case more than ten percent of
18 the proceeds, taking into account the significance of the
19 information and the role of the relator in advancing the case to
20 litigation.

21 (c) Any payment to a relator under (a) or (b) of this subsection
22 must be made from the proceeds. The relator must also receive an
23 amount for reasonable expenses which the court finds to have been
24 necessarily incurred, plus reasonable attorneys' fees and costs. All
25 expenses, fees, and costs must be awarded against the defendant.

26 (2) If the attorney general does not proceed with a qui tam
27 action, the relator shall receive an amount which the court decides

1 is reasonable for collecting the civil penalty and damages. The
2 amount may not be less than twenty-five percent and not more than
3 thirty percent of the proceeds of the action or settlement and must
4 be paid out of the proceeds. The relator must also receive an amount
5 for reasonable expenses, which the court finds to have been
6 necessarily incurred, plus reasonable attorneys' fees and costs. All
7 expenses, fees, and costs must be awarded against the defendant.

8 (3) Whether or not the attorney general proceeds with the qui
9 tam action, if the court finds that the action was brought by a
10 person who planned and initiated the violation of RCW 74.66.020 upon
11 which the action was brought, then the court may, to the extent the
12 court considers appropriate, reduce the share of the proceeds of the
13 action which the person would otherwise receive under subsection (1)
14 or (2) of this section, taking into account the role of that person
15 in advancing the case to litigation and any relevant circumstances
16 pertaining to the violation. If the person bringing the action is
17 convicted of criminal conduct arising from his or her role in the
18 violation of RCW 74.66.020, that person must be dismissed from the
19 civil action and may not receive any share of the proceeds of the
20 action. The dismissal may not prejudice the right of the state to
21 continue the action, represented by the attorney general.

22 (4) If the attorney general does not proceed with the qui tam
23 action and the relator conducts the action, the court (~~may~~) shall
24 award to the defendant reasonable attorneys' fees and expenses if
25 the defendant prevails in the action (~~and the court finds that the~~
26 ~~claim of the relator was clearly frivolous, clearly vexatious, or~~
27 ~~brought primarily for purposes of harassment~~)).

28 (5) Any funds recovered that remain after calculation and
29 distribution under subsections (1) through (3) of this section must
30 be deposited into the medicaid fraud penalty account established in
31 RCW 74.09.215."

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33 Correct the title.

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EFFECT: Amends the Medicaid Fraud False Claims Act to require the court to award reasonable attorneys' fees and expenses to a defendant who prevails in a qui tam action conducted by the relator where the Attorney General did not intervene in the action. (Under the current provision, the court may award reasonable attorneys' fees and expenses to a defendant who prevails in a qui tam action conducted by the relator if the court finds the claim was clearly frivolous, clearly vexatious, or brought primarily for harassment purposes.)

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